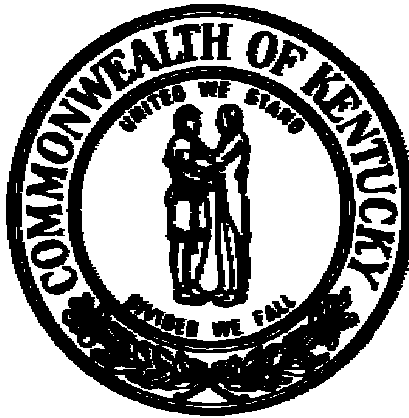


LAWS AND REGULATIONS RELATING TO

Licensure as a Nursing Home Administrator



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The statutes and regulations provided in this booklet are an *unofficial* version of the Kentucky Revised Statutes and Kentucky Administrative Regulations and are intended for informational purposes only. The official or certified versions of the Kentucky Revised Statutes and Kentucky Administrative Regulations should be consulted for all matters requiring reliance on the statutory text.

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Kentucky Revised Statutes

216A.010 Definitions.

As used in this chapter:

(1) The term "nursing home" means a place devoted primarily to the maintenance and operation of facilities for the treatment and care of persons who suffer from illness, disease, deformity or injury not requiring the intensive care normally provided in a hospital, but who do require care in excess of room, board and laundry and who need medical and nursing care.

(2) The term "nursing home administrator" means any individual responsible for planning, organizing, directing, and controlling the operation of a nursing home, or who in fact performs such functions, whether or not such functions are shared by one or more other persons.

(3) The term "board" means the Kentucky Board of Licensure for Nursing Home Administrators.

216A.020 Short title.

This chapter may be cited as the "Kentucky Nursing Home Administrators Licensure Act of 1970."

216A.030 License required.

No nursing home shall operate except under the supervision of a nursing home administrator, and no person shall be a nursing home administrator unless he is the holder of a nursing home administrator's license issued pursuant to this chapter.

216A.040 Kentucky Board of Licensure for Nursing Home Administrators -- Membership.

There shall be a Kentucky Board of Licensure for Nursing Home Administrators located within the Finance and Administration Cabinet for administrative and budgetary purposes. The board shall be composed of ten (10) members. The secretary of the Cabinet for Health Services shall be an ex officio member of the board. The other members of the board shall be appointed by the Governor. One (1) member shall be a practicing hospital administrator, to be appointed from a list of two (2) names submitted by the Kentucky Hospital Association. One (1) member shall be a practicing medical physician, to be appointed from a list of two (2) names submitted by the Kentucky State Medical Association. One (1) member shall be an educator in the field of allied health services. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. One (1) member shall be a practicing nursing-home administrator appointed from a list of two (2) names submitted by the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc. The other four (4) members shall be practicing nursing-home administrators appointed from a list of two (2) names for each vacancy submitted by the Kentucky Association of Health Care Facilities and duly licensed under this chapter, except that such members of the initial board shall be required only to possess the qualifications and be eligible for licensure as required in this chapter.

216A.045 Board transferred to division of occupations and professions.

The Kentucky Board of Licensure for Nursing Home Administrators is hereby transferred from the Cabinet for Human Resources to the division of occupations and professions in the Finance and Administration Cabinet.

216A.050 Terms of board members -- Consecutive terms restricted.

The appointive members of the board shall hold office for terms of four (4) years and until successors are appointed and qualified except that the terms of office of the eight (8) members first appointed shall be as follows: two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years, two (2) members shall be appointed for three (3) years and two (2) members shall be appointed for four (4) years and the respective terms of the first members shall be designated by the Governor at the time of their appointment. Thereafter, the term of office of each member shall be four (4) years or until a successor is appointed and qualified. No appointive member shall serve more than two (2) full consecutive terms.

216A.060 Officers -- Meetings -- Quorum -- Technical advisory committees -- Compensation.

(1) The board shall elect annually from its membership a chairman and vice chairman. The board shall hold two (2) or more meetings each year. At any meeting a majority shall constitute a quorum. The board may procure specialized consultation through the formation of such technical advisory committees as it may deem necessary in the execution of its responsibilities.

(2) Members of the board shall receive per diem compensation to be established by the secretary of the Finance and Administration Cabinet. This compensation shall not exceed fifty dollars (\$50) per day. Members shall be reimbursed for actual and necessary expenses.

216A.070 Duties and powers of board.

(1) The board shall:

(a) Develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(b) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets the standards;

(c) Issue licenses to individuals determined, after application of appropriate techniques, to meet established standards, and revoke or suspend, after hearing, licenses previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of the standards;

(d) Establish and carry out procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of the standards;

(e) Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of the standards; and

(f) Conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the state with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such.

(2) The board or any committee or member thereof or any hearing officer designated by the board, acting in an official capacity, shall have the authority to conduct administrative hearings in accordance with KRS Chapter 13B concerning all matters within the jurisdiction of the board.

(3) The board shall also have the authority to promulgate administrative regulations necessary for the proper performance of its duties, and to take other actions necessary to enable the state to meet the requirements set forth in Section 1908 of the Social Security Act, the federal rules and regulations promulgated thereunder, and other pertinent federal authority or amendment thereto.

(4) The board may, when emergency conditions warrant, as determined by the board, authorize the issuance of a temporary permit to an individual to practice the art of nursing home administration if it finds the authorization will not endanger the health and safety of the occupants of the nursing home. A temporary permit shall be valid for a period determined by the board not to exceed six (6) months and shall not be renewed. The fee for a temporary permit shall be determined by regulations of the board.

216A.080 Requirements for issuance of license.

(1) No person shall be eligible to practice nursing home administration in this state unless:

(a) He shall make written application to the board on such forms as are provided therefor;

(b) He is at least twenty-one (21) years of age;

(c) He is a citizen of the United States or has declared his intent to become a citizen of the United States;

(d) He provides proof satisfactory to the board that he is of good moral character and is otherwise suitable;

(e) He has passed an examination administered by the board; and

(f) He meets such other requirements as may be established by the board provided that such requirements are uniform and are applied to all other applicants for a license.

(2) When an applicant shall have met the requirements as provided herein, the board shall issue to such applicant a license to practice nursing home administration in this state.

216A.090 Renewal of license.

Every holder of a nursing home administrator's license shall renew his license biennially by making application to the board on forms provided therefor. The board may refuse to renew any license for failure to comply with the provisions of this chapter or the rules and regulations promulgated under this chapter, including continuing education requirements.

216A.100 Provisional license.

(1) The board may issue a provisional license to any individual applying therefor who:

(a) Has served as nursing home administrator during all of the calendar year immediately preceding July 1, 1970; and

(b) Meets the standards of this chapter as described in paragraphs (a), (b), (c) and

(d) of subsection (1) of KRS 216A.080.

(2) A provisional license shall terminate after two (2) years or at midnight June 30, 1972, whichever is earlier, and shall be canceled and be of no legal force or effect thereafter.

(3) A provisional license or extension thereof may not be issued to any person after June 30, 1972.

(4) It shall be the board's responsibility to assure that, during such period as the provisional license section is in effect, there is provided in this state, a program of training and instruction designed to enable all individuals with respect to whom any such provisional license is granted, to meet the requirements for licensure set forth by the board and by this chapter.

216A.110 Fees and charges.

(1) The board shall prescribe and collect reasonable fees and charges for processing applications, examinations and issuance of licenses, including renewals.

(2) All fees and charges collected under the provisions of this chapter shall be paid into the State Treasury and credited to a trust and agency fund to be used by the board in defraying the cost and expenses in the administration of this chapter.

216A.120 Courses of instruction -- Approval of out-of-state courses.

If the board finds that there are not courses of instruction and training sufficient in quantity and quality to meet the requirements of this chapter conducted within the state, it may conduct one or more such courses, and shall make provisions for such courses and their accessibility to residents of this state. The board may approve courses conducted within and without this state as sufficient to meet the education and training requirements of this chapter.

216A.130 Reciprocity.

The board, in its discretion, and otherwise subject to the provisions of this chapter and the rules and regulations of the board promulgated thereunder prescribing the qualifications for a nursing home administrator license, may issue such a license to a nursing home administrator possessing a license issued by the proper authorities of any other state, upon payment of a fee set by the board, and upon submission of evidence satisfactory to the board:

(1) That such other state maintained a system and standard of qualifications and examinations for a nursing home administrator license which were substantially equivalent to those required in this state at the time such other license was issued by such other state; and

(2) That such other state gives similar recognition and endorsement to nursing home administrator licenses of this state.

216A.140 Appeal.

Persons aggrieved by orders of the board may appeal therefrom to the Franklin Circuit Court and thence to the Court of Appeals in the manner provided by law.

216A.150 Violations.

It shall be a misdemeanor for any person to:

(1) Sell or fraudulently obtain or furnish any license or aid or abet therein, or

(2) Practice as a nursing home administrator, under cover of any license illegally or fraudulently obtained or unlawfully issued, or

(3) Practice as a nursing home administrator or use in connection with his or her name any designation tending to imply that he or she is a nursing home administrator unless duly licensed to so practice under the provisions of this chapter, or

(4) Practice as a nursing home administrator during the time his or her license issued under the provisions of this chapter shall be suspended or revoked, or

(5) Otherwise violate any of the provisions of this chapter or the rules and regulations of the board.

216A.990 Penalties.

Misdemeanors shall be punishable by a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100). Each day of violation shall constitute a separate offense.

Kentucky Administrative Regulations

201 KAR 6:020. Other requirements for licensure.

RELATES TO: KRS 216A.070(1)(a), 216A.080(1)(e), (f)

STATUTORY AUTHORITY: KRS 216A.070(3), 216A.080(1)(e), (f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216A.070(1)(a) requires the Kentucky Board of Licensure for Nursing Home Administrators to develop, impose, and enforce standards which shall be met by an individual in order to receive a license. KRS 216A.080(1)(f) authorizes the board to establish other requirements to be met if the requirements are uniform and applied to each applicant for a license. KRS 216A.080(1)(e) requires an applicant to pass an examination administered by the board. This administrative regulation establishes the other requirements for licensure and sets limits on the taking of the examination.

Section 1. An applicant for a license as a nursing home administrator shall in addition to meeting all of the requirements provided by KRS 216A.080(1):

(1) Have satisfactorily completed a course of study for, and have been awarded a baccalaureate degree from an accredited college or university;

(2) Pass the written examination administered and verified by the National Association of Board of Examiners for Nursing Home Administrators and submit documentation of a passing score to the Board of Licensure for Nursing Home Administrators.

(3)(a) Except as provided in paragraph (b) of this subsection, have six (6) months of continuous management experience in a health care facility within three (3) years of the date of application. The management experience shall include evidence of responsibility for:

1. Personnel management;
2. Budget preparation;
3. Fiscal management; and
4. Public relations.

(b) A preceptorship or internship, that is at least six (6) months in length, which is a part of a degree in long-term care administration or a related field, shall satisfy the experience requirement established in paragraph (a) of this subsection.

Section 2. (1) The examination for licensure established by KRS 216A.080(1)(e) shall be the examination prepared by the National Association of Boards of Examiners for Nursing Home Administrators.

(2) An applicant shall be permitted to sit for the examination no more than four (4) times within twelve (12) months.

201 KAR 6:030. Temporary permits.

RELATES TO: KRS 216A.070(4)

STATUTORY AUTHORITY: KRS 216A.070(3), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216A.070(4) authorizes the board to issue a temporary permit to an individual to practice the art of nursing home administration. This administrative regulation establishes the requirements for issuance of a temporary permit.

Section 1. (1) A temporary permit to practice as a nursing home administrator shall be granted to an applicant if:

(a) The applicant has applied for licensure under the provisions of KRS Chapter 216A;

(b) The applicant has completed all of the requirements for licensure except the examination;

(c) The facility where the applicant is to be employed as the administrator is without a licensed administrator; and

(d) The facility owner provides a written request and supporting information to the board indicating that an emergency situation exists. An emergency situation shall be deemed to exist if:

1. The facility is without a licensed nursing home administrator; and

2. A licensed nursing home administrator is not available to fill the position.
- (2) The request for temporary permit shall include payment of the temporary permit fee as established in 201 KAR 6:060, Section 3.
- Section 2. A temporary permit shall not be transferred.

201 KAR 6:040. Renewal of license.

RELATES TO: KRS 216A.090

STATUTORY AUTHORITY: KRS 216A.070(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216A.090 requires the holder of a license to renew his license biennially. This administrative regulation establishes the requirements for renewal, late renewal, inactive licensure and reinstatement of a license.

Section 1. (1) A license shall be renewed every two (2) years from date of issue or from date of last renewal. To apply for renewal, a licensee shall:

- (a) Submit a completed Renewal Form B130-7 to the board; and
- (b) Pay to the board the appropriate renewal fee established in 201 KAR 6:060 for the renewal of his license.

(2) A sixty (60) day grace period shall be allowed after the renewal date, during which time a licensee may continue to practice and may renew his license upon payment of the late renewal fee established in 201 KAR 6:060.

(a) A license not renewed by the end of the sixty (60) day grace period shall terminate based on the failure of the licensee to renew in a timely manner.

(b) Upon termination, the licensee shall not practice in the Commonwealth.

(3) A license shall be deemed inactive if:

- (a) A licensee submits to the board a written request seeking inactive status;
- (b) A licensee pays to the board the inactive licensee fee established in 201 KAR 6:060 for an inactive license;
- (c) The grace period established in subsection (2) of this section has not expired; and
- (d) The license is in good standing when the inactive status request is received.

(4)(a) After the sixty (60) day grace period, an individual with a terminated license shall have his license reinstated upon payment of the reinstatement fee established in 201 KAR 6:060.

(b) A person who applies for reinstatement after termination of his license shall not be required to meet current licensure requirements, except those established in 201 KAR 6:070, Section 10, if reinstatement application is made within two (2) years from the date of termination.

(5) A licensee who fails to reinstate his license within two (2) years after its termination shall not have it renewed, restored, reissued, or reinstated. A person may apply for and obtain a new license by meeting the current requirements for licensure established in KRS Chapter 216A and 201 KAR Chapter 6.

(6) A suspended license shall be subject to expiration and termination and shall be renewed as provided in this administrative regulation. Renewal shall not entitle the licensee to engage in the practice until the suspension has ended, or is otherwise removed by the board and the right to practice is restored by the board.

(7) A revoked license shall be subject to expiration or termination and shall not be renewed. If it is reinstated, the licensee shall pay the reinstatement fee as set forth in subsection (2) of this section and the renewal fee as set forth in subsection (1) of this section.

(8) A licensee applying for renewal, late renewal, or reinstatement of licensure shall show evidence of completion of continuing education as established by 201 KAR 6:070.

Section 2. Incorporation by Reference. (1) "Renewal Form B130-7", (7/1/97 edition), is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Kentucky Board of Licensure for Nursing Home Administrators, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

201 KAR 6:050. Licensure by endorsement.

RELATES TO: KRS 216A.130

STATUTORY AUTHORITY: KRS 216A.070(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216A.130 authorizes the board to issue a license to a nursing home administrator possessing a license issued by another state. This administrative regulation establishes the requirements for issuance of a license by endorsement.

Section 1. The board shall issue a license by endorsement, without examination, to a nursing home administrator currently licensed by examination by the proper authorities of another state upon:

(1) Verification that he:

(a) Meets all current requirements for licensure as established by KRS 216A.080 and 201 KAR 6:020, except for KRS 216A.080(e); or

(b) Is currently designated as a certified nursing home administrator by the American College of Health Care Administrators;

(2) Payment of the fee for licensure by endorsement as established by 201 KAR 6:060;

(3) Verification of his license issued by another state which indicates that his license is:

(a) Active;

(b) Valid;

(c) In good standing; and

(d) There are no unresolved complaints pending against his license.

201 KAR 6:060. Fees.

RELATES TO: KRS 216A.110(1), 216A.130

STATUTORY AUTHORITY: KRS 216A.070(3), (4), 216A.110(1), 216A.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216A.070(4) requires the board to establish a fee for a temporary permit. KRS 216A.110(1) requires the board to prescribe and collect reasonable fees and charges for processing applications, examination, and issuance of licenses, including renewals. KRS 216A.130 authorizes the board to establish a fee for licensure by reciprocity. This administrative regulation establishes those fees.

Section 1. Application Fee. (1) The application fee for board review of the application for licensure shall be fifty (50) dollars.

(2) The application fee shall be nonrefundable.

Section 2. Initial Licensure Fee. (1) The initial licensure fee shall be \$150 for an applicant for licensure.

(2) The fee for licensure by endorsement shall be \$250 for an applicant for licensure.

(3) If the applicant successfully completes all requirements for licensure, this fee shall cover licensure for the initial two (2) year period.

Section 3. Temporary Permit Fee. The fee for a temporary permit shall be fifty (50) dollars.

Section 4. Renewal Fee, Late Renewal Fee, Inactive License Fee and Reinstatement Fee.

(1) The renewal fee shall be \$100.

(2) The late renewal fee shall be \$150.

(3) The inactive license fee shall be fifty (50) dollars.

(4) The fee for reactivating an inactive license shall be fifty (50) dollars.

(5) The reinstatement fee shall be \$300.

Section 5. Duplicate License Fee. The duplicate license fee shall be twenty-five (25) dollars.

Section 6. Licensure Verification Fee. The fee for verification of state licensure shall be fifteen (15) dollars.

201 KAR 6:070. Continuing education requirements.

RELATES TO: KRS 216A.090

STATUTORY AUTHORITY: KRS 216A.070(3), 216A.090

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216A.090 authorizes the board to promulgate an administrative regulation requiring a licensed nursing home administrator to complete continuing education requirements as a condition of renewal of his licensure. This administrative regulation delineates the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses.

Section 1. Definitions. (1) "Approved" means recognized by the Kentucky Board of Licensure for Nursing Home Administrators.

(2) "Continuing education hour" means sixty (60) clock minutes of participation in a continuing educational experience.

(3) "Program" means an organized learning experience planned and evaluated to meet behavioral objectives, including an experience presented in one (1) session or in a series.

(4) "Provider" means an organization approved by the Kentucky Board of Licensure for Nursing Home Administrators for providing a continuing education program.

(5) "Relevant" means having content applicable to the practice of nursing home administration as determined by the board.

Section 2. Accrual of Continuing Education Hours; Computation of Accrual. (1) A minimum of thirty (30) continuing education hours shall be accrued by each person holding licensure during the two (2) year period for renewal.

(2) All continuing education hours shall be in or related to the field of nursing home administration.

Section 3. Methods of Acquiring Continuing Education Hours. Continuing education hours applicable to the renewal of the license shall be directly related to the professional growth and development of a nursing home administrator. A continuing education hour shall be earned by completing any of the following educational activities:

(1) Programs not requiring board review and approval. An educational program from any of the following providers shall be deemed to be relevant to the practice of nursing home administration and shall be approved without further review by the board if it is:

(a) Sponsored or approved by the National Association of Boards of Licensure for Nursing Home Administrators (NAB) or another board of licensure which is a member of NAB;

(b) Sponsored by:

1. The American Association of Homes and Services for the Aging, or any of its affiliated state chapters;

2. The American College of Health Care Administrators, or any of its affiliated state chapters;

3. The American College of Healthcare Executives;

4. The American Health Care Association, or any of its affiliated state chapters;

5. The American Hospital Association or any of its affiliated state chapters;

6. The Kentucky Board of Nursing; or

(c) A college course directly related to business administration, economics, marketing, computer science, social services, psychology, gerontology, or health professions including nursing or premedicine;

(2) Programs requiring board review and approval. A program from one (1) of the following sources shall be approved by the board if the board determines the program is relevant:

(a) Relevant programs, including home study courses or in-service training provided by other organizations, educational institutions, or other service providers approved by the board;

(b) Relevant programs or academic courses presented by the licensee. A presenter of relevant programs or academic courses shall earn full continuing education credit for each contact hour of instruction, not to exceed one-half (1/2) of the continuing education renewal requirements. Credit shall not be issued for repeated instruction of the same course;

(c) Authoring an article in a relevant, professionally recognized or juried publication. Credit shall be granted for an article that was published within the two (2) year period immediately preceding the renewal date if the licensee has not received credit for another publication during that renewal period. A licensee shall earn one-half (1/2) of the continuing education hours required for a relevant publication.

Section 4. Procedures for approval of Continuing Education Programs. A course which has not been preapproved by the board may be used for continuing education if approval is secured from the board for the course. In order for the board to adequately review this program, the following information shall be submitted:

- (1) A published course or similar description;
- (2) Names and qualifications of the instructors;
- (3) A copy of the program agenda indicating hours of education, coffee and lunch breaks;
- (4) Number of continuing education hours requested;
- (5) Official certificate of completion or college transcript from the sponsoring agency or college; and
- (6) Application for continuing education credits approval.

Section 5. Procedures for Preapproval of Continuing Education Sponsors and Programs.

(1) Sponsor approval. Any entity seeking to obtain approval:

(a) Of a continuing education program prior to its offering shall apply to the board at least sixty (60) days in advance of the commencement of the program, and shall provide the information required in Section 4 of this administrative regulation.

(b) As a prior-authorized continuing education provider under Section 3(1) of this administrative regulation, shall satisfy the board that the entity seeking this status:

1. Consistently offers programs which meet or exceed all the requirements set forth in Section 2 of this administrative regulation; and
2. Does not exclude any licensee from its programs.

(2) A continuing education activity shall be qualified for approval if the board determines the activity being presented:

- (a) Is an organized program of learning;
- (b) Pertains to subject matters which integrally relate to the practice of nursing home administration;
- (c) Contributes to the professional competency of the licensee; and
- (d) Is conducted by individuals who have educational training or experience acceptance to the board.

Section 6. Responsibilities and Reporting Requirements of Licensees. Each licensee shall be responsible for obtaining required continuing education hours. He shall identify his own continuing education needs, take the initiative in seeking continuing professional education activities to meet these needs, and seek ways to integrate new knowledge, skills and attitudes. Each person holding licensure shall:

- (1) Select approved activities by which to earn continuing education hours;
- (2) Submit to the board, if applicable, a request for continuing education activities requiring approval by the board as established in Section 4 of this administrative regulation;
- (3) Maintain his own records of continuing education hours;
- (4) At the time of renewal, list the continuing education hours obtained during that licensure renewal period;
- (5) Furnish documentation of attendance and participation in the appropriate number of continuing education hours at the time of his renewal, as follows:

(a) Each person holding licensure shall maintain, for a period of two (2) years from the date of renewal, all documentation verifying successful completion of continuing education hours;

(b) During the two (2) year licensure renewal period, up to fifteen (15) percent of all licensees shall be required by the board to furnish documentation of the completion of the appropriate number of continuing education hours for the current renewal period;

(c) Verification of continuing education hours shall not otherwise be reported to the board;

(d) Documentation sent in to the board prior to renewal shall be returned to the licensee by regular mail;

(e) Documentation shall take the form of official documents including:

1. Transcripts;

2. Certificates;

3. Affidavits signed by instructors; or

4. Receipts for fees paid to the sponsor; and

(f) Each licensee shall retain copies of his documentation.

Section 7. Responsibilities and Reporting Requirements of Providers. (1) Providers of continuing education not requiring board approval shall be responsible for providing documentation, as established in Section 4 of this administrative regulation, directly to the licensee.

(2) Providers of continuing education requiring board approval shall be responsible for submitting a course offering to the board for review and approval before listing or advertising that offering as approved by the board.

Section 8. Board to Approve Continuing Education Hours; Appeal when Approval Denied. If an application for approval of continuing education hours is denied, the licensee shall have the right to request reconsideration by the board of its decision. The request shall be in writing and shall be received by the board within thirty (30) days after the date of the board's decision denying approval of continuing education hours.

Section 9. Waiver or Extensions of Continuing Education. (1) The board may, in individual cases involving medical disability, illness, or undue hardship as determined by the board, grant waivers of the minimum continuing education requirements or extensions of time within which to fulfill the requirements or make the required reports.

(2) A written request for waiver or extension of time involving medical disability or illness shall be submitted by the person holding a license and shall be accompanied by a verifying document signed by a licensed physician.

(3) Waivers of the minimum continuing education requirements or extensions of time within which to fulfill the continuing education requirements shall be granted by the board for a period of time not to exceed one (1) calendar year.

(4) If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the person holding licensure shall reapply for the waiver or extension.

Section 10. Continuing Education Requirements for Reinstatement or Reactivation of Licensure. (1) A person requesting reinstatement or reactivation of licensure shall submit evidence of thirty (30) hours of continuing education within the twenty-four (24) month period immediately preceding the date on which the request for reinstatement or reactivation is submitted to the board.

(2) Upon request by a licensee, the board may permit him to resume practice, with the provision that he shall receive thirty (30) hours continuing education within six (6) months of the date on which he is approved to resume practice.

(3) The continuing education hours received in compliance with this section shall be in addition to the continuing education requirements established in Section 2 of this administrative regulation and shall not be used to comply with the requirements of that section.

201 KAR 6:080. Code of ethics.

RELATES TO: KRS 216A.070(1)(a), (c), (d)

STATUTORY AUTHORITY: KRS 216A.070(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216A.070(1)(a) requires the board to develop, impose, and enforce standards which shall be met by an individual licensed as a nursing home administrator. KRS 216A.070(1)(c) requires the board to discipline an individual who fails to meet those standards after licensure. KRS 216A.070(1)(d) requires the board to establish and carry out procedures to insure compliance with the established standards. This administrative regulation establishes a code of ethics as a portion of the standards which shall be met in compliance with KRS 216A.070(1)(a),(c), and (d).

Section 1. Definitions. (1) "Nursing facility" means an institution licensed pursuant to 902 KAR 20:300 and 902 KAR 20:008.

(2) "Nursing home administrator" means an individual responsible for the operation of a nursing home, as defined under KRS 216A.010(2).

(3) "Resident" means an individual who resides as a patient in a nursing facility, pursuant to 900 KAR 2:060(1), (4).

Section 2. Responsibility to Residents. (1) A nursing home administrator shall:

(a) Advance and protect the welfare of the resident;

(b) Respect the rights of a person seeking service;

(c) Operate the facility consistent with laws and administrative regulations applicable to nursing facilities under KRS Chapter 216; and

(d) Have the duty to report to the proper authorities knowledge of resident abuse, pursuant to KRS Chapter 209.

(2) A nursing home administrator shall not:

(a) Provide services other than those for which he is prepared and qualified to perform;

(b) Discriminate against or refuse professional service to anyone on the basis of race;

(c) Misrepresent qualifications, education, experience or affiliations;

(d) Exploit the trust and dependency of a resident;

(e) Participate in activities that reasonably may be considered to create a conflict of interest, or have the potential to have a substantial adverse impact on the facility, its residents or its staff;

(f) Engage in a sexual relationship or sexual contact, as defined under KRS 510.010(7), with a resident; or

(g) Engage in sexual or other harassment or exploitation of a resident, student, trainee, supervisee, employee, colleague, research subject, or actual or potential witness or complainant in an investigation or disciplinary proceeding.

Section 3. Confidentiality. A nursing home administrator shall not divulge confidential information, except:

(1) As mandated, or permitted, by law;

(2) To prevent a clear and immediate danger to a person;

(3) In the course of a civil, criminal, or disciplinary action if:

(a) The nursing home administrator is a defendant in that action; and

(b) The action arose from a service provided by the nursing home administrator; or

(4) To comply with the terms of a consent agreement if written informed consent has been obtained.

Section 4. Professional Competence and Integrity. A nursing home administrator shall maintain standards of professional competence and integrity and shall be subject to disciplinary action for:

(1)(a) Conviction of a felony, or a misdemeanor related to the practice as a nursing home administrator.

(b) Conviction shall include conviction based on:

1. A plea of no contest or an "Alford Plea"; or

2. The suspension or deferral of a sentence.

- (2) Having been subject to disciplinary action by another state's regulatory agency that the board determines violates applicable Kentucky state law or administrative regulation;
- (3) Impairment due to mental incapacity or the abuse of alcohol or another substance which negatively impacts the practice of nursing home administration;
- (4) Misrepresentation or concealment of a material fact in obtaining or seeking reinstatement of license;
- (5) Refusing to comply with an order issued by the board;
- (6) Failing to cooperate with the board by not:
 - (a) Furnishing in writing a complete explanation to a complaint filed with the board;
 - (b) Furnishing documentation requested by the board regarding a complaint;
 - (c) Appearing before the board at the time and place designated; or
 - (d) Properly responding to a subpoena issued by the board; or
- (7) Violating a state statute or administrative regulation governing the practice of nursing home administration.

201 KAR 6:090. Complaint management process.

RELATES TO: KRS 216A.070(1)(e)

STATUTORY AUTHORITY: KRS 216A.070(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216A.070(1)(e) requires the board to investigate a person engaging in a practice which violates the provisions of KRS Chapter 216A. This administrative regulation establishes procedures for the investigation of a complaint received by the board.

Section 1. Definitions. (1) "Chairman" means the chairman or vice-chairman of the board.

(2) "Charge" means a specific allegation contained in a formal complaint, as established in subsection (4) of this section, issued by the board alleging a violation of a specified provision of KRS Chapter 216A or the administrative regulations promulgated thereunder.

(3) "Complaint" means:

(a) A written allegation alleging misconduct by a credentialed individual or other person which might constitute a violation of KRS Chapter 216A, the administrative regulations promulgated thereunder, or another state or federal statute or regulation;

(b) A notification which relates to the credential of the individual pursuant to KRS Chapter 216A; or

(c) A "Notification of Substandard Care" issued by the Cabinet for Health Services, as defined in 42 CFR 488.301.

(4) "Formal complaint" means a formal administrative pleading authorized by the board which sets forth charges against a licensed individual or other person and commences a formal disciplinary proceeding pursuant to KRS Chapter 13B or requests the court to take criminal action.

(5) "Informal proceeding" means a proceeding instituted during the disciplinary process with the intent of reaching a dispensation of a matter without further recourse to formal disciplinary procedures under KRS Chapter 13B.

(6) "Investigator" means an individual designated by the board to assist the board in the investigation of a complaint or an investigator employed by the Attorney General or the board.

(7) "Standards of practice committee" means the committee appointed pursuant to Section 7 of this administrative regulation.

Section 2. Receipt of Complaints. (1) A complaint may be submitted by an individual, organization, or entity. A complaint shall be in writing and shall be signed by the person offering the complaint. The board may file a complaint based on information in its possession.

(2) Upon receipt of a complaint:

(a) A copy of the complaint shall be sent to the individual named in the complaint along with a request for that individual's response to the complaint. The individual shall be allowed a period of twenty (20) days from the date of receipt to submit a written response.

(b) Upon receipt of the written response of the individual named in the complaint, a copy of his response shall be sent to the complainant. The complainant shall have five (5) days from the receipt to submit a written reply to the response.

(3) Upon receipt of a notification of substandard care, a copy of the notification shall be sent to the individual along with a letter from the board requesting the following information:

(a) The effective date of that administrator becoming the administrator of record for the facility. If that has occurred within the last 180 days, the facility shall furnish the name of the previous administrator.

(b) Copy of completed and approved 2567L and Notice of Acceptance of Allegation of Compliance as issued by the Cabinet for Health Services;

(c) Copy of Notice of Results of Revisit as issued by the Cabinet for Health Services; and

(d) Formal notice of each remedy imposed by the Cabinet for Health Services, if applicable.

Section 3. Initial Review. (1) After the receipt of a complaint and the expiration of the period for the individual's response, the standards of practice committee shall consider the individual's response, complainant's reply to the response, and other relevant material available and make a recommendation to the board. The board shall determine whether there is enough evidence to warrant a formal investigation of the complaint.

(2) If, in the opinion of the board, a complaint does not warrant the formal investigation of a complaint against an individual, the board shall dismiss the complaint and shall notify both the complaining party and the individual of the outcome of the complaint.

(3)(a) If, in the opinion of the board, a complaint warrants a formal investigation against either a licensed individual or a person who may be practicing without appropriate credential, the board shall authorize an investigator to investigate the matter and make a report to the standards of practice committee at the earliest opportunity.

(b) In the case of a notification of substandard care, the board shall:

1. Open a formal investigation; or

2. Proceed under Section 4(3) of this administrative regulation.

Section 4. Results of Formal Investigation; Board Decision on Hearing. (1) Upon completion of the formal investigation, the investigator shall submit a report to the standards of practice committee of the facts regarding the complaint. The committee shall review the investigative report and make a recommendation to the board. The board shall determine whether there is enough evidence to believe that a violation of the law or administrative regulations may have occurred and whether a complaint shall be filed.

(2) If, in the opinion of the board, a complaint does not warrant the issuance of a formal complaint and the holding of a hearing, the complaint shall be dismissed or other appropriate action taken. The board shall notify both the complaining party and the individual of the outcome of the complaint.

(3) When in the opinion of the board a complaint warrants the issuance of a formal complaint against a licensee, the standards of practice committee shall prepare a formal complaint which states clearly the charge or charges to be considered at the hearing. The formal complaint shall be reviewed by the board and, if approved, signed by the chairman and served upon the individual as required by KRS 13B.040.

(4) If, in the opinion of the board, a person shall be practicing without appropriate credential, it may:

(a) Issue a letter ordering that person to cease and desist from the unlicensed practice of nursing home administration;

(b) Forward information to the county attorney of the county of residence of the person allegedly practicing without appropriate credential with a request that appropriate action be taken under KRS 216A.150 and 216A.990; or

(c) Initiate action in Franklin Circuit Court for injunctive relief to stop the unauthorized practice of nursing home administration.

Section 5. Settlement by Informal Proceedings; Letter of Admonishment. (1) The board, through counsel and the standards of practice committee, may enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter.

(a) An agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chairman.

(b) The board may employ mediation as a method of resolving the matter informally.

(2)(a) The board may issue a written admonishment to the licensee if in the judgment of the board:

1. An alleged violation is not of a serious nature; and

2. The evidence presented to the board after the investigation and appropriate opportunity for the licensee to respond, provides a clear indication that the alleged violation did in fact occur.

(b) A copy of the admonishment shall be placed in the permanent file of the licensee.

(c) Within thirty (30) days of receipt of an admonishment, the licensee shall file:

1. A response to the admonishment which shall be placed in the licensee's permanent licensure file; or

2. A request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing pursuant to the provisions of KRS Chapter 13B.

Section 6. Notice and Service Process. A notice required by KRS Chapter 216A or this administrative regulation shall be issued pursuant to KRS 13B.040.

Section 7. Standards of Practice Committee. The standards of practice committee shall:

(1) Be appointed by the chairman of the board to:

(a) Review a complaint or investigative report; and

(b) Participate in an informal proceeding to resolve a formal complaint;

(2) Consist of three (3) persons, including:

(a) A board member who is a nursing home administrator;

(b) A board member who is not a nursing home administrator; and

(c) One (1) other person, which may be the executive director of the board or another staff member.